

## **ATXI Appendix A – Exceptions Language**

### **DOCKET 12-0598**

### **EXCEPTIONS OF AMEREN TRANSMISSION COMPANY OF ILLINOIS**

The following are the Exceptions of Ameren Transmission Company of Illinois (ATXI or the Company) to the Administrative Law Judges' Second Proposed Order on Rehearing (ALJPO) issued in this proceeding on January 17, 2014. The Exceptions are discussed in the accompanying Rehearing Brief on Exceptions as indicated in this Appendix. Appropriate replacement language for the ALJPO related to each such Exception is set forth herein in blackline format. For the reasons stated in ATXI's Rehearing Brief on Exceptions, the Company asks that the ALJPO be revised to incorporate the replacement language contained in this Appendix.

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**Exception 1: ALJPO SECTION IX, “Pana-Mt. Zion Segment,” Subsection E, “Commission Conclusion,” (ALJPO 47-49) should be modified as follows, as discussed in section I.A of the accompanying Brief on Exceptions:**

### **E. Commission Conclusion**

Of the four routes for the Pana-Mt. Zion segment, none rises above the others as the clearest choice. In terms of length, all are comparable although the Assumption/Corzine Route along Highway 51 is the shortest. The Blended Route is the least expensive, totaling nearly \$60 million. Exactly how much more the Assumption/Corzine Route would cost is unknown since a total cost estimate for this route does not appear in the record. With regard to the difficulty of construction and maintenance, the Assumption/Corzine Route is arguably the preferred route because Highway 51 facilitates access for the majority of its length.

Environmental impacts to consider include the clear cutting of Mr. Sprague's timber along the Primary/Blended Routes and the proximity of the Blended Route to MCCD's land. Although not discussed much in the context of the Pana-Mt. Zion segment, MCCD has made clear that it is not willing and/or able to provide ATXI an easement. This presents a difficulty, since the Assumption/Corzine Route passes between two parcels owned by MCCD on either side of Highway 51. This issue can be addressed, however, by adopting a modification to avoid the parcels, as described below. Other than these considerations, the environmental impacts of the four routes appear to be comparable. The impacts on historical resources and social and land use also appear comparable among the four routes. Although ATXI identified some archaeological sites along the Primary Route and Assumption/Corzine Route, it indicates that the sites can be spanned.

The number of landowners affected and proximity to homes and other development is difficult to ascertain. The Assumption/Corzine Route would appear to affect the fewest number of landowners. ATXI suggests, however, that selection of this route would necessitate the destruction of two homes on the west side of Highway 51 south of Assumption. ATXI also indicates that this route has more homes closer to the center line than does the Primary Route. But as discussed in the August 20, 2013 Order in this matter, the Commission is reluctant to rely on the "residency assumptions" of ATXI, particularly with regard to the Pana-Mt. Zion segment where Mr. Corzine identified shortcomings in ATXI's methods. (See Order at 9) In addition, having reviewed the record, the Commission can see no reason why adoption of the Assumption/Corzine Route would necessitate the demolition of the identified homes. The land to the east of these homes is unoccupied farm ground.

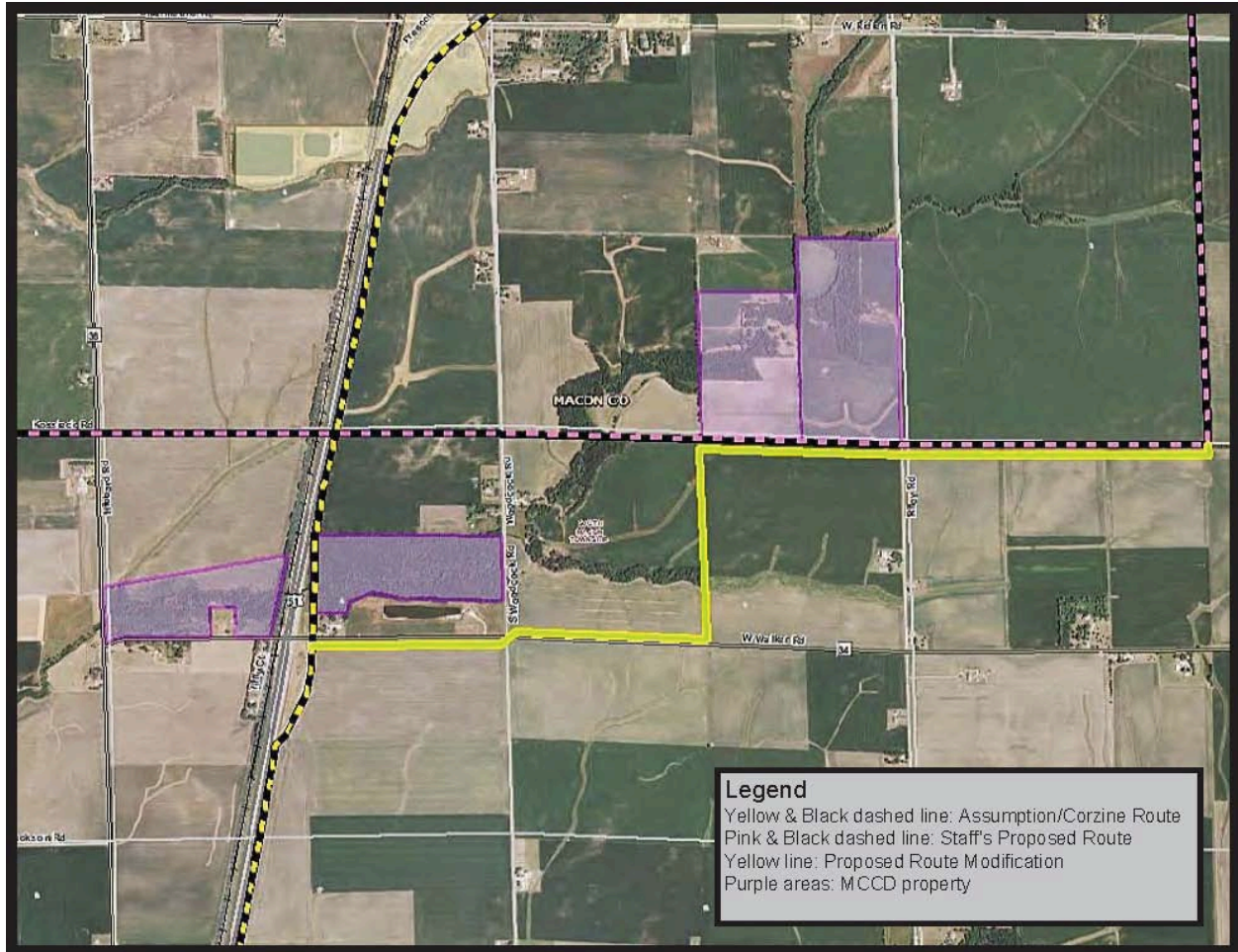
With regard to community acceptance, none of the routes appears to enjoy a clear preference over another. The visual impact is arguably the greatest along the Assumption/Corzine Route since it would run along a public highway. At the same time, the highway provides the Assumption/Corzine Route a favorable status due to the accessibility it provides as an existing corridor.

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In addition to these criteria, the Commission is also confronted with the need to choose a route that ends at Staff's substation Option #2 site. Having to do so will result in the end of Staff's Kincaid route being chosen since it is the only route that ends at substation Option #2. This leaves the Commission with three choices for the remainder of the Pana-Mt. Zion segment: (1) the Blended Route (which includes Staff's Kincaid route), (2) the Assumption/Corzine Route south of Staff's Kincaid route (including the modification to avoid the MCCD property), and (3) ATXI's Alternate Route south of Staff's Kincaid route.

Having the considered the advantages and disadvantages of each route, the Commission finds the Assumption/Corzine Route along Highway 51, as modified to avoid the MCCD property, the most suitable route. This route is the shortest and most easily accessible. Despite ATXI's assertions, the number of impacted landowners and residences appears to be comparable to the other routes. Moreover, as discussed above, the Commission can discern no reason why any homes would need to be demolished if the Assumption/Corzine Route is chosen. Other than ATXI, no party has objected to the adoption of the Assumption/ Corzine Route. In fact, in the earlier phase of this proceeding, Staff supported its adoption. ATXI should therefore utilize the Assumption/Corzine Route from Pana until it reaches Walker Road, at which point it will turn east and then north again to connect with Staff's Kincaid route, at which point ATXI should follow the Staff's Kincaid route east to the substation Option #2 site. This route avoids passing between the two MCCD parcels along Highway 51, and should enable ATXI to construct its route south of the remaining MCCD parcel east of Highway 51, so as to eliminate concerns regarding the availability of easements on these properties. The figure below shows the approved modification.

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~~Admittedly, this route does not avoid the MCCD property, which is just east of Highway 51. But the Commission trusts that ATXI will work to address this obstacle. If need be, the Commission will entertain requests for a revised route under Section 8-406 to avoid the MCCD land.~~

***Alternate Exception 1: ALJPO SECTION IX, “Pana-Mt. Zion Segment,” Subsection E, “Commission Conclusion,” (ALJPO 47-49) should be modified as follows, as discussed in section I.A of the accompanying Brief on Exceptions:***

### **E. Commission Conclusion**

Of the four routes for the Pana-Mt. Zion segment, the Blended Route ~~none~~ rises above the others as the clearest choice. In terms of length, all are comparable although the Assumption/ Corzine Route along Highway 51 is the shortest. The Blended Route is the least expensive, totaling nearly \$60 million. Exactly how much more the Assumption/Corzine Route would cost is unknown since a total cost estimate for this

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route does not appear in the record. With regard to the difficulty of construction and maintenance, the Assumption/Corzine Blended Route is arguably the preferred route. Although because Highway 51 might facilitates access for the majority of its length to the Assumption/Corzine Route during construction, this route passes between two parcels owned by MCCD. Although not discussed much in the context of the Pana-Mt. Zion segment, MCCD has made clear that it is not willing and/or able to provide ATXI an easement. Since ATXI may not be able to acquire an easement that would allow it to construct the Assumption/Corzine Route, the Blended Route is preferable.

Environmental impacts to consider include the clear cutting of Mr. Sprague's timber along the Primary/Blended Routes and the proximity of the Assumption/Corzine Route Blended Route to MCCD's land. ~~Although not discussed much in the context of the Pana-Mt. Zion segment, MCCD has made clear that it is not willing and/or able to provide ATXI an easement.~~ Other than these considerations, the environmental impacts of the four routes appear to be comparable. The impacts on historical resources and social and land use also appear comparable among the four routes. Although ATXI identified some archaeological sites along the Primary Route and Assumption/Corzine Route, it indicates that the sites can be spanned.

The number of landowners affected and proximity to homes and other development is difficult to ascertain. The Assumption/Corzine Route would appear to affect the fewest number of landowners. ATXI suggests, however, that selection of this route would necessitate the destruction of two homes on the west side of Highway 51 south of Assumption. ATXI also indicates that this route has more homes closer to the center line than does the Primary Route. ~~But as discussed in the August 20, 2013 Order in this matter, the Commission is reluctant to rely on the "residency assumptions" of ATXI, particularly with regard to the Pana-Mt. Zion segment where Mr. Corzine identified shortcomings in ATXI's methods. (See Order at 9) In addition, having reviewed the record, the Commission can see no reason why adoption of the Assumption/Corzine Route would necessitate the demolition of the identified homes. The land to the east of these homes is unoccupied farm ground. Thus, the Blended Route is preferable with respect to these criteria.~~

With regard to community acceptance, none of the routes appears to enjoy a clear preference over another. The visual impact is arguably the greatest along the Assumption/Corzine Route since it would run along a public highway. At the same time, the highway provides the Assumption/Corzine Route a favorable status due to the accessibility it provides as an existing corridor.

In addition to these criteria, the Commission is also confronted with the need to choose a route that ends at Staff's substation Option #2 site. Having to do so will result in the end of Staff's Kincaid route being chosen since it is the only route that ends at substation Option #2. This leaves the Commission with three choices for the remainder of the Pana-Mt. Zion segment: (1) the Blended Route (which includes Staff's Kincaid route), (2) the Assumption/Corzine Route south of Staff's Kincaid route, and (3) ATXI's Alternate Route south of Staff's Kincaid route.

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Having the considered the advantages and disadvantages of each route, the Commission finds the Assumption/Corzine Blended Route along Highway 51 the most suitable route. This route is the shortest least expensive, would not result in potential destruction of homes and most easily accessible presents no apparent difficulties with respect to easement acquisition. Despite ATXI's assertions, ~~t~~ The number of impacted landowners and residences appears to be comparable to the other routes. ~~Moreover, as discussed above, the Commission can discern no reason why any homes would need to be demolished if the Assumption/Corzine Route is chosen. Other than ATXI, n~~ No party has ~~objected to~~ advocated for the adoption of the Assumption/ Corzine Route on rehearing. In fact, in the earlier phase of this proceeding, Staff supported its adoption. ATXI should therefore utilize the Assumption/Corzine Blended Route from Pana until it reaches Staff's Kincaid route, at which point ATXI should follow the Staff's Kincaid route east to the substation Option #2 site. ~~Admittedly, this route does not avoid, passing south of the MCCD property, which is just east of Highway 51. But the Commission trusts that ATXI will work to address this obstacle. If need be, the Commission will entertain requests for a revised route under Section 8 406 to avoid the MCCD land.~~

**Exception 2: ALJPO SECTION X, "Mt. Zion-Kansas Segment," subsection G, "Commission Conclusion," (ALJPO pp. 74-77) should be modified as follows, as discussed in section I.B of the accompanying Brief on Exceptions:**

### **G. Commission Conclusion**

The Commission has reviewed each party's position for this segment of the project, and believes each has attempted to summarize the evidence as it has been presented. The Commission will again express its dismay regarding the apparent confusion regarding the number of homes and other buildings impacted by each proposed route. The Commission notes that this proceeding has been going on for over a year, and it seems that it is still not settled on where a home is in relation to a proposed route, and whether it will be impacted or not. The apparent reliance on Google Earth™ to determine such issues, while less expensive, seems a questionable practice to the Commission. With that being said, the Commission will attempt to analyze the criteria it has previously considered in determining the most appropriate choice.

As to the "Length of the Line," or the "Difficulty and Cost of Construction," it appears uncontroverted that the PDM/CFT and Staff Routes are preferable to the Moultrie PO Route. As to the "Difficulty and Cost of Operation and Maintenance," it appears there is no material difference between the routes in question.

In regards to the issue of "Visual Impact," the Commission notes that each route will consist of the same type of construction, across mostly the same type of property. The route supported by Moultrie PO, ATXI, the LBJ Partnership and the Corley's is longer; however a portion of that extra length will parallel an existing transmission line,

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thereby mitigating some of the visual impact from the extra length. The Commission believes there is little difference between the routes in considering this criterion.

When considering the criterion of "Community Acceptance," the Commission accepts that it is unclear exactly what should be considered, and how it should be determined which route has more "Community Acceptance." Moultrie PO and ATXI note that they have come to an agreement on a route, and it is supported by certain other intervenors. PDM/CFT however, points to the number of landowners that have joined its petition in this proceeding. In considering the evidence presented in this proceeding, the Commission believes there is no clear preference between the routes presented.

The Commission will next turn its attention to "Environment Impacts," one of the more contested areas for this segment of the project. ATXI and Moultrie PO claim that the route they support has fewer wooded acres involved, as well as paralleling in part an existing transmission line. PDM/CFT argues that as the route it supports is shorter, the environmental impact should be lessened, and suggest that the area where the Moultrie PO Route will be located threatens a forested flood plain, as well as a grove of hybrid black walnut trees. The Commission believes based on the evidence presented, that neither route is clearly preferable to the other when considering "Environmental Impacts."

When considering "Impacts on Historical Resources," the Commission notes that it previously found that no impacts would impair the ability to construct the Stipulated Route supported by Moultrie PO and ATXI, or ATXI's Primary or Alternate Routes. PDM/CFT suggests on rehearing that the Moultrie PO Route will come too close to the "Amish community" in Arthur and will impact tourist trips to the area. ATXI however believes that both routes are approximately the same distance from Arthur, and the impact will depend on which direction a person takes in traveling to Arthur to determine which route is preferable in regards to Arthur. Although there is also a suggestion of historical artifact sites in the Moultrie PO Route path, the Commission accepts ATXI's assertion that it can span any sites and will obtain any required permits or approval before construction. The Commission will again express its frustration that after months of testimony and investigation, there is dispute between the parties as to which route is closer to a town such as Arthur. This seems a basic fact that should not be subject to interpretation. After considering the evidence presented, the Commission is unable to determine any clear preference between the routes based on the criterion of "Impacts on Historical Resources."

In considering the criterion of "Social and Land Use Impact," the Commission notes that it found that this criterion favored the Moultrie PO Route as it affected the least amount of farmland, and it would not affect the Tuscola Airport. PDM/CFT now argues that the evidence on rehearing has shown that this criterion now favors the PDM/CFT Route. Moultrie PO contends however, that its evidence shows that the Moultrie PO Route will not conflict with the Tuscola Airport, despite the testimony from the PDM/CFT witness. The Commission notes that this witness apparently uses the airport in question, and is not an official associated with the airport. It appears from the

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evidence that the route which Moultrie PO has presented the Commission with, will impact more farmland, being longer; and also appears to split more farms, rather than traveling along roads or section lines. The Commission believes that the evidence presented shows that there is a preference for the PDM/CFT and Staff Routes when considering this issue.

When considering the criteria of "Number of Affected Landowners and Stakeholders," "Proximity to Homes and Other Structures," and "Proximity to Existing and Planned Development," the Commission notes that a great deal of time was spent by the parties at hearing attempting to determine how many houses and where buildings were in relation to the proposed routes. The source of the different residence counts appears to be the differing widths of study corridors utilized by the parties. While ATXI and Moultrie PO analyzed the number of residences within 500 feet of the centerline, Staff analyzed the number of residences within 400 feet, and PDM/CFT analyzed the number of residences within 530 feet. Staff suggests that Regardless of the width of the study corridor, however, the PDM/CFT and Staff Routes would be closer to more residences, which is noted in ATXI's table on this issue. The Commission also notes that Although PDM/CFT believes the evidence presented is questionable, and that various structures were "missed" along the Moultrie PO Route, the Commission notes that the residences PDM/CFT believes to have been "missed" are largely outside the study corridor used by ATXI and Moultrie PO. PDM/CFT also contends that the greater length of the Moultrie PO Route means it will necessarily affect more landowners. PDM/CFT also lists several apparently small towns to which the Moultrie PO Route comes in proximity. Without evidence of specific developments planned in those various smaller communities, the Commission is hesitant to give that argument much weight. Regardless of which route is approved, the Commission notes that the evidence does not appear to reflect that any residences will need to be removed. The Commission is unable to find, based on the evidence presented, that either route is preferable when considering these criteria. Because the PDM/CFT and Staff routes impact more homes regardless of the study corridor used to enumerate impacted residences, the Commission finds that the Moultrie PO Route is preferable with respect to these three criteria.

The last criterion to consider is the "Presence of Existing Corridors." All parties agree that the Moultrie PO Route parallels US Highway 36 and existing transmission lines for a portion of its length. The Commission notes that PDM/CFT argues that this runs counter to ATXI's arguments on the Meredosia-Pawnee segment, where ATXI argued that paralleling raised possible costs of construction, raised the risk of dual outage, and in some cases made maintenance more difficult. In contrast, PDM/CFT suggests that its route follows more natural corridors, such as roads and section lines, while impacting far fewer landowners. The Commission finds that it must agree with PDM/CFT that its route is preferable to the Moultrie PO Route when considering this criterion. The PDM/CFT route follows more corridors such as property lines, section lines, and roads, while avoiding the dangers of parallel lines that ATXI has previously argued is an adverse attribute. The Commission also notes that the PDM/CFT Route apparently affects fewer landowners and is shorter.



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Based on the evidence presented to the Commission on this segment of the project, the Commission believes that the preferable route is the PDM/CFT Moultrie PO Route with Staff's modification. As discussed above, it is preferable with respect to the number of affected landowners and stakeholders, the number of impacted residences, and the proximity to existing and planned development. While the PDM/CFT Route is shorter, the Commission once again finds that the criterion of proximity to existing residences carries a great deal of weight, since it is important to avoid siting high-voltage transmission lines in proximity to residential dwellings. See *Ill. Power Co.*, Docket 06-0706, Order on Reopening, p. 27 (June 23, 2010); *Ill. Power Co.*, Docket 06-0179, Order, pp. 16-17 (May 16, 2007). Since the Moultrie PO Route impacts substantially fewer residences, it is clearly the least-cost option which has been presented to the Commission. In addition, it presents no difficulties in construction or maintenance, and affects fewer property owners than the other options presented. It also appears to better utilize existing corridors such as roads, section lines, and property lines.

**Exception 3: ALJPO SECTION XII, "Findings and Ordering Paragraphs" (ALJPO pp. 80-82) should be modified as follows, as discussed in section I.C of the accompanying Brief on Exceptions:**

### **XII. FINDINGS AND ORDERING PARAGRAPHS**

Having given due consideration to the entire record, the Commission is of the opinion and finds that:

- (1) ATXI is a public utility pursuant to the Act;
- (2) the Commission has jurisdiction over ATXI and the subject matter of this proceeding;
- (3) the facts recited and legal argument identified as the parties' respective positions are supported by the record;
- (4) the facts recited and conclusions of law reached in the Commission conclusion are hereby adopted as findings of fact and conclusions of law for purposes of this Second Order on Rehearing;
- (5) the route for the transmission line segment between the Meredosia and Pawnee, Pawnee and Pana, Pana and Mt. Zion, and Mt. Zion and Kansas should be approved along the routes identified in the prefatory portion of this Second Order on Rehearing and shown in the Appendices hereto;
- (6) the proposed new or expanded substations at Kansas, Sidney, Rising, Ipava, Pana, and Mt. Zion should be approved at the locations identified in the

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prefatory portion of this Second Order on Rehearing and shown in the Appendices hereto;

- (7) pursuant to Section 8-406.1(f)(1) of the Act, the Commission finds that the portions of the project approved for the first time herein are necessary to provide adequate, reliable, and efficient service to the public utility's customers and is the least cost means of satisfying the service needs of the public utility's customers or that the project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives;
- (8) pursuant to Section 8-406.1(i) of the Act, ATXI is authorized, pursuant to Section 8-503 of the Act, to construct the high voltage electric service line, the new and expanded substations, and related facilities as approved by the Commission in the prefatory portion of this Second Order on Rehearing;
- (9) all other findings and conclusions contained in the August 20, 2013 Order should remain unchanged; and
- (10) all motions, petitions, objections, and other matters in this proceeding which remain unresolved should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Certificate of Public Convenience and Necessity issued to Ameren Transmission Company of Illinois pursuant to Section 8-406.1 of the Public Utilities Act on August 20, 2013 in this docket is hereby replaced with the following:

### **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

IT IS HEREBY CERTIFIED that the public convenience and necessity require (1) construction, operation, and maintenance by Ameren Transmission Company of Illinois of segments of a 345 kV electric transmission line over routes found appropriate at locations shown on Appendix B and legally described in Appendix C attached hereto, as well as new substations at locations approved in Docket No. 12-0598, and (2) the transaction of an electric public utility business in connection therewith, all as set forth in the August 20, 2013 Order and February 20, 2014 Second Order on Rehearing in Docket No. 12-0598.

IT IS FURTHER ORDERED that ATXI shall provide, no later than 10 days after the issuance of this Final Order, an Appendix C containing a legal description for each of the final approved routes for the Project.

IT IS FURTHER ORDERED that pursuant to Section 8-503 of the Act, ATXI is authorized to construct the high voltage electric service line, the new and expanded

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substations and related facilities as described in the prefatory portion of this Second Order on Rehearing.

IT IS FURTHER ORDERED that all other findings and conclusions contained in the August 20, 2013 Order remain unchanged.

IT IS FURTHER ORDERED that all motions, petitions, objections, and other matters in this proceeding which remain unresolved are disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Act and 83 Ill. Adm. Code 200.880, this Second Order on Rehearing is final; it is not subject to the Administrative Review Law.